

**FILED**

**NOT FOR PUBLICATION**

**JUN 29 2006**

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN MUSSACK,

Plaintiff - Appellant,

v.

DEPARTMENT OF EDUCATION,  
STATE OF HAWAII,

Defendant - Appellee.

No. 04-15971

D.C. No. CV-02-00311-HG/BMK

ORDER \*

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

3 JUL 26 2006  
at 3 o'clock and 20 min. PM  
SUE BEITIA, CLERK

Appeal from the United States District Court  
for the District of Hawaii  
Helen Gillmor, District Judge, Presiding

Argued and Submitted June 14, 2006  
Honolulu, Hawaii

Before: PREGERSON, CANBY, and HALL, Circuit Judges.

We affirm the district court's grant of summary judgment to the Hawaii Department of Education. Mussack's retaliation claim fails because he did not present sufficient evidence to show that the Department's proffered reason for his termination was pretext. *See Villiarimo v. Aloha Island Air, Inc.*, 281 F.3d 1054,

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

1061-62 (9th Cir. 2002). Mussack's interference claim similarly fails because he did not present sufficient evidence to support it. Regardless of which framework is used to analyze his interference claim, Mussack simply did not present evidence that the Department interfered with his rights. *See Brown v. City of Tucson*, 336 F.3d 1181, 1193 (9th Cir. 2003).

**AFFIRMED.**

